

**CALIFORNIA ENVIRONMENTAL
PROTECTION AGENCY**

**A Report to the Governor and Legislature
on Actions Taken in 2003 to Implement
Government Code Section 12812.2**

May 2004

CAL/EPA ENFORCEMENT PROGRAM UPDATE
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Taken in 2003 to Implement Government Code Section 12812.2

Government Code Section 12812.2 defines the duties of the California Environmental Protection Agency (Cal/EPA) Deputy Secretary for Law Enforcement and Counsel as follows:

- 1) Develop a program to ensure that Cal/EPA, its entities, and local government take consistent, effective, and coordinated enforcement actions. The program shall include training and cross training of inspection personnel to ensure consistent, effective, and coordinated enforcement.
- 2) Establish a cross media enforcement unit to assist Cal/EPA, its entities, and local government to investigate and prepare matters for enforcement action.
- 3) Refer violations of environmental law or regulation to outside prosecutors such as the Attorney General or District Attorney.

As required by subsection (c), this report provides an update on actions taken during 2003 by the Cal/EPA Office of the Secretary to implement this section.

Enforcement Training

Cal/EPA took several steps to lower costs, improve efficiencies and seek alternative sources of funding for environmental enforcement training programs. Cal/EPA was able to fund several of these training events using money from the settlement of an enforcement action specifically designated for that use (referred to as "enforcement scholarships").

During 2003, delivery of the Cal/EPA Inspector Certification Program continued. The Cal/EPA Inspector Certification Program consists of three components: The Cal/EPA Basic Inspector Academy, the Cal/EPA Cross Media Enforcement Symposium, and a clearinghouse for cross media inspector training. Each of these components is discussed in detail below.

1) The Cal/EPA Basic Inspector Academy. This two-week training course consists of multiple modules including: report writing, sampling, field safety, inspection techniques, and an overview of California environmental laws and agencies. The Academy provides baseline knowledge and works in conjunction with existing media-specific training to prepare tribal, state, and local environmental regulatory field staff to conduct efficient and professional inspections. In 2003, a total of 91 inspection personnel completed the Academy which was offered in both Northern and Southern California.

The Academy will be offered three times in 2004. To reduce delivery costs, the Academy was reduced from a two-week course to a one-week course and registration fees have been added. Additional delivery options such as online learning modules are being explored and developed.

2) The Cal/EPA Cross Media Enforcement Symposium. This annual four-day training event is open to government, industry, and members of the public. Training sessions cover enforcement programs specific to each of Cal/EPA's boards and departments and their local counterparts. Mock administrative, civil, and criminal proceedings are presented. The Symposium is the continuing education and Commission on Peace Officer Standards and Training (POST) certified component of Cal/EPA's enforcement training program and provides up-to-date information on cross media environmental enforcement issues. A total of 221 individuals attended the Symposium in 2003. Using enforcement scholarships, Cal/EPA paid for all speaker travel costs and for registration and travel costs for 59 enforcement staff from state, local, and tribal environmental regulatory programs.

3) The 5th Annual Unified Program/Underground Storage Tank Conference. The Unified Program (CUPA) consolidates permits, inspections, and enforcement activities for six hazardous materials, hazardous waste and emergency management programs. Cal/EPA coordinated the development of enforcement training at the 5th Annual Unified Program/Underground Storage Tank Conference held February 3-6, 2003 in Anaheim, California. This conference presented over 60 technical sessions on updates and included a dedicated enforcement "track" of sessions. Cal/EPA awarded 20 enforcement training scholarships to local CUPA staff and paid for travel costs for speakers on enforcement subjects.

4) Training Information Clearinghouse Web Site. The Clearinghouse (www.calepa.ca.gov/Enforcement/Training/Clearinghouse) provides one-stop shopping for environmental inspectors to find information on available training. The Clearinghouse is designed to facilitate consistent and effective training across environmental disciplines, encourage cross training, and help agencies share limited training resources.

5) Specialized Enforcement Training. Cal/EPA offered the following specialized enforcement training in 2003:

Federal Contract Suspension and Debarment: This one-day course at Cal/EPA headquarters was offered in April 2003 for regulators and prosecutors in cooperation with the United States Environmental Protection Agency (U.S. EPA). The session provided insight into the debarment process and gave attendees the necessary information for utilizing debarment as an effective enforcement tool.

Environmental Crime Scene Investigation: This two-day class was offered in April 2003 at Cal/EPA headquarters in cooperation with the California Hazardous

Materials Investigators Association and University of California, Riverside Extension. This class provided investigators with exposure to traditional forensic crime scene investigative techniques as applied in the environmental context and training in advanced investigation and surveillance techniques. Segments included infrared photography, computer forensics, and forensic accounting, as well as environmental applications of traditional crime scene investigation techniques such as fingerprinting. Partial funding was made available from the California Hazardous Materials Investigators Association.

Illegal Disposal of Solid Waste on State and Tribal Lands: Cal/EPA assisted the California Integrated Waste Management Board and University of California, Los Angeles, in developing training for local and tribal community solid waste inspectors. The one-day workshops were held in Fresno, Palm Springs, Sacramento, and Eureka. These workshops were conducted close to tribal lands to promote tribal member participation. This training will be continued in 2004.

Metal Finishers: Cal/EPA organized a one-day training for regulators and prosecutors to address the metal finishing sector, their processes, compliance issues, the investigation and prosecution of cases involving metal finishing violations. Minimum Continuing Legal Education (MCLE) credits for this training was approved by the State Bar.

Case Coordination and Referral

Thrifty-Best Services and Ameriguard Maintenance Service, LLC: Cal/EPA's creation of a statewide grease haulers task force to focus enforcement efforts on the illegal disposal of waste grease in California led to a civil enforcement action charging a large Fresno-based grease hauling business with violations of water pollution laws. The complaint was filed in San Joaquin County by the San Joaquin County District Attorney and was joined in by 12 other District Attorneys including Fresno, Kings, Madera, Merced, Monterey, Sacramento, San Bernardino, Shasta, Solano, Sonoma, Stanislaus, and Tehama counties. A \$900,000 settlement was reached representing \$620,400 in penalties and \$279,600 in costs. Prosecutors also obtained a court order preventing Thrifty Best and its owner from doing business in California forever. The illegal disposal of restaurant grease is a significant statewide problem causing damage to publicly owned sewage treatment facilities, expensive sewer backups and damage to the environment including water pollution. Cal/EPA presented this case study at various training events to assist in the resolution of issues affecting multiple counties. This was the largest multi-county environmental enforcement case ever brought in the State of California.

Pacific Custom Materials, Inc., and Texas Industries, Inc. (TXI): Following complaints to the Air Resources Board (ARB) and the Ventura County Air Pollution Control District (VCAPCD), Cal/EPA coordinated a multi-agency investigation of TXI in Ventura County. This investigation resulted in a referral to the California Attorney General for prosecution of alleged violations of emission limitations of sulfur oxides,

nitrogen oxides, and particulate matter. In early 2004, a settlement was reached by TXI, ARB, and VCAPCD, the terms of which included the payment of \$350,000 and required new emissions monitoring requirements that will provide real-time data to the VCAPCD, and various other measures to ensure compliance with air pollution laws and regulations.

Data Management Improvement

Cal/EPA has received grants from the U.S. EPA for its Integrated Data Environmental Assessment (IDEA) enforcement pilot project. The goal for this project is to remove barriers and share enforcement data among Cal/EPA's boards and departments. This will facilitate the identification of compliance trends and targeting of enforcement efforts. A model federal database entitled ECHO (Enforcement and Compliance History Online) (<http://www.epa.gov/echo/>) contains environmental regulatory information on facility sites, however, there is currently no equivalent State database.

For its pilot project, information from regulatory permits was selected to be the initial category of data to be exchanged. To achieve this, a network node is being developed to enable accessing data from various databases.

In 2003, the Boards, Departments and Office (BDOs) within Cal/EPA began uploading into their databases a unique facility identifier number, issued by U.S. EPA for sites under their jurisdiction. This step was necessary to begin testing of network node capabilities to access and view multi-media information of permitted sites. Each BDO within Cal/EPA will be able to view not only their own data on a specific site, but will be able to view data collected from other Cal/EPA entities. Future phases in the pilot project include incorporation of Sacramento County local agency data, a participant in this pilot project.

The Environmental Circuit Prosecutor Project

The Environmental Circuit Prosecutor Project was established to fill a gap in the enforcement of environmental laws in California's small counties. During 2003, Cal/EPA continued to provide the majority of funding for the project. The project was codified as a cooperative effort of the California District Attorneys Association (CDAA) and Cal/EPA in the Environmental Enforcement and Training Act of 2002 (AB 2486, Chapter 1000, Statutes of 2002). As described below, this new statutory scheme provides additional sources of funding for this program that provides environmental prosecutors to small rural counties.

Penal Code 14300 The Environmental Enforcement and Training Act

This Act provides a method for the distribution of grant funds to the CDAA, the Environmental Circuit Prosecutor Project, and POST. Funding for the account comes from money designated for such use in state or federal court judgments in

enforcement cases. These contributions are often referred to as Supplemental Environmental Projects or "SEPs". Private contributions may also be received. No General Fund money is used in this program.

Cal/EPA promulgated regulations to implement this new law and made the first distributions in 2003 with approximately \$32,000 going to CDAA for training, and \$32,000 to the Circuit Prosecutor Project. Cal/EPA also awarded an additional \$32,000 in discretionary grants to the Circuit Prosecutor Project. At the time of this report, Cal/EPA is still working with POST on the grant money apportioned to their commission.

Cal/EPA Cross Media Enforcement Unit

Pursuant to a Memorandum of Understanding (MOU) between the ARB and Cal/EPA, investigative staff at ARB has been designated as Cal/EPA's cross media enforcement unit for purposes of Government Code section 12812.2. The Department of Toxic Substances Control also contributes to cross media enforcement efforts through its Criminal Investigations Branch and Taskforce Support and Special Investigations Branch. Other Cal/EPA BDOs contribute resources on an as-needed basis. In 2003, staff continued to investigate environmental enforcement cases.

Cal/EPA Enforcement Report

Enforcement Progress Report: In 2003, Cal/EPA prepared a comprehensive report on environmental enforcement in California for 1999-2002. This report updated the first report prepared in 2001 and described the progress achieved by each of Cal/EPA's BDOs, and by regional and local enforcement agencies. The report is viewable at <http://www.calepa.ca.gov/enforcement/documents/2002ProgRpt.pdf>.